

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Investigation into the Gas Market Activities of Southern California Gas Company, San Diego Gas and Electric, Southwest Gas, Pacific Gas and Electric, and Southern California Edison and their impact on the Gas Price Spikes experienced at the California Border from March 2000 through May 2001.

Investigation 02-11-040  
(Filed November 21, 2002)

**ADMINISTRATIVE LAW JUDGE'S RULING  
BIFURCATING AND MODIFYING SCHEDULE IN PHASE I**

This ruling modifies the schedule for Phase I of Investigation (I.) 02-11-040. It bifurcates Phase I to allow parties to address in Phase I.B issues regarding whether the Sempra Energy (Sempra) non-utility affiliates or their parent company played a role in causing the natural gas price spikes at the California border from March 2000 through May 2001.

On December 12, 2003, Southern California Edison Company (SCE) filed a motion asking that it be allowed to file supplemental testimony in Phase I of this proceeding regarding issues related to the Sempra non-utility affiliates and their parent company. SCE asserted that, due to delays in completing discovery with Sempra and its non-utility affiliates, SCE was not able to complete its analysis before its Phase I initial testimony was served on December 10, 2003. Several parties filed responses to SCE's motion and SCE filed a reply to those responses.

In a February 12, 2004 letter, SCE proposed that Phase I be bifurcated to consider separately issues related to Sempra and its affiliates, due to still-pending production of discovery materials. Parties submitted letters in response to SCE's proposal.

I agree with SCE that Phase I hearings should be bifurcated, so that the broader Phase I issues may proceed to hearing while discovery and analysis of parent company and non-utility affiliate issues are completed. The scoping memo lists four issues, with multiple sub-issues, within the scope of Phase I.<sup>1</sup> The bifurcated Phase I.A will address Issues 1, 3, and 4, and Phase I.B will address Issue 2 as set forth in the scoping memo. This ruling may be modified if it is not feasible to adhere to this demarcation without substantial re-writing of the Phase I testimony that has already been submitted. Additionally, if pending discovery leads to the receipt of information relevant to Phase I.A too late for its inclusion in Phase I.A, I will entertain requests for its consideration in Phase I.B.

No later than March 15, 2004, SoCalGas and SDG&E should send me a letter, with service on all parties, specifying in detail how their Phase I direct testimony should be separated into Phase I.A and Phase I.B components consistent with the guidance in this ruling. Any party objecting to the demarcation proposed by SoCalGas and SDG&E should notify me by letter, with service on all parties, no later than March 19, 2004, and should include an alternative proposal.

A cursory review indicates that all direct testimony submitted by Sempra, Pacific Gas and Electric Company, and SCE should be considered in Phase I.A.

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<sup>1</sup> In an August 1, 2003 ruling, I added a sub-issue to issue 4 in the scoping memo.

Any party disagreeing with this determination should notify me by letter, with service on all parties, no later than March 15, 2004, and should include an alternative proposal. Parties may reply by letter to any such proposals no later than March 19, 2004, with service on all parties.

Electronic service is sufficient for letters regarding the separation of already-submitted Phase I testimony into Phase I.A and Phase I.B components.

I adopt the following schedule for Phase I.A and Phase I.B:

Initial Phase I testimony by SoCalGas, SDG&E, and Sempra	June 11, 2003
Supplemental initial Phase I testimony by SoCalGas and SDG&E	October 1, 2003
Initial Phase I testimony by all other parties	December 10, 2003
Phase I.A concurrent rebuttal testimony	April 5, 2004
Phase I.A deadline for discovery requests	April 12, 2004
Phase I.B initial testimony by parties other than SoCalGas, SDG&E, and Sempra	April 19, 2004
Phase I.A all discovery responses due	April 22, 2004
Phase I.A evidentiary hearings	April 26 through May 14, 2004
Phase I.A opening briefs	June 11, 2004
Phase I.B concurrent rebuttal testimony	June 18, 2004
Phase I.B deadline for discovery requests	June 23, 2004
Phase I.A reply briefs and submission	June 25, 2004
Phase I.B all discovery responses due	June 28, 2004, 9:00 a.m.
Phase I.B evidentiary hearings	June 28 through July 9, 2004 (except July 5, 2004)
Phase I.B opening briefs	July 30, 2004

Phase I.B reply briefs and submission

August 13, 2004

The evidentiary hearings shall be held in the Commission Courtroom, State Office Building, 505 Van Ness Avenue, San Francisco, California, and shall commence at 10:00 a.m., on April 26, 2004.

Pursuant to Rule 8(d) of the Commission Rules of Practice and Procedure, parties requesting final oral argument before the Commission in either Phase I.A or Phase I.B should include that request in their concurrent opening briefs for Phase I.A or Phase I.B, respectively.

Parties have been given advance electronic notice of this ruling.

Therefore, **IT IS RULED** that:

1. Phase I of Investigation 02-11-040 is bifurcated and the schedule is modified as set forth herein.
2. Southern California Gas Company (SoCalGas) and San Diego Gas & Electric Company (SDG&E) shall send a letter to the administrative law judge (ALJ), with service on all parties, specifying in detail how their Phase I direct testimony should be separated into Phase I.A and Phase I.B components consistent with this ruling.
3. Any party objecting to the demarcation proposed by SoCalGas and SDG&E may notify the ALJ by letter, with service on all parties, no later than March 19, 2004, and shall include an alternative proposal.

4. Any party objecting to consideration in Phase I.A of the direct testimony already submitted by Sempra Energy, Pacific Gas and Electric Company, and Southern California Edison Company shall notify the ALJ by letter, with service on all parties, no later than March 15, 2004, and shall include an alternative proposal. Other parties may respond to such notification by letter, with service on all parties, no later than March 19, 2004.

5. A party may request final oral argument as set forth herein.

Dated March 10, 2004, at San Francisco, California.

/s/ CHARLOTTE F. TERKEURST

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Charlotte F. TerKeurst  
Administrative Law Judge

**CERTIFICATE OF SERVICE**

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Bifurcating and Modifying Schedule in Phase I on all parties of record in this proceeding or their attorneys of record. In addition, service was also performed by electronic mail.

Dated March 10, 2004, at San Francisco, California.

/s/ FANNIE SID

Fannie Sid

**N O T I C E**

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

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The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074 or TTY# 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.